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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/733,089

12/11/2003

Janice H. Nickel

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07/11/2007

HEWLETT PACKARD COMPANY

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INTELLECTUAL PROPERTY ADMINISTRATION

FORT COLLINS, CO 80527-2400

EXAMINER

DICKEY, THOMAS L

ART UNIT

PAPER NUMBER

2826

MAIL DATE

DELIVERY MODE

07/11/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/733,089	Applicant(s) NICKEL ET AL.	
	Examiner Thomas L. Dickey	Art Unit 2826	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 June 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

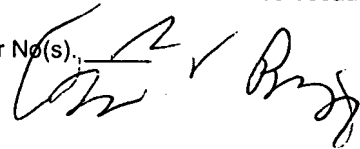
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____
 Claim(s) objected to: _____
 Claim(s) rejected: _____
 Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s): _____
 13. ☐ Other: _____



Thomas L. Dickey
 Primary Examiner
 Art Unit: 2826

Continuation of 3. NOTE: Applicants have amended claim 1 to include the language "...wherein the sense line is utilized to thermally assist in switching a magnetic orientation of THE at least one of the plurality of magnetic memory elements ..." Applicants argue that the amended language, "THE at least one of the plurality of magnetic memory elements," refers to a specific one of the plurality of magnetic memory elements that may be distinguished, using language found within the four corners of the claim, from the rest of the plurality of magnetic memory elements. It is not immediately clear how one may read this meaning into the claim. Assuming it is true, however, the amended language creates a new issue not previously searched or considered, because the claim, as previously recited, treated the magnetic memory elements as so many peas in a pod. It is noted that the proposed claim still does not recite any particular relationship between any single one of the plurality of magnetic memory elements and either the first via or the second via. The claim requires the first and second vias to be included (somewhere) within the sense line. The claim imposes no other limitations on either the first or the second via. It should further be noted that in the device of Daughton et al., the sense line appears capable of indiscriminately thermally assisting in switching the magnetic orientation of every blessed one of the plurality of magnetic memory elements. To the Examiner it seems logical that this should lead to a conclusion that the sense line of Daughton et al.'s device is capable of thermally assisting in switching a magnetic orientation of a particular magnetic memory element. It would be like (by way of analogy) a disclosure that the Examiner had brought a five-pound bag of rice home from the store. Such a disclosure would inevitably lead to the conclusion (to the Examiner's way of thinking) that the Examiner had brought home a particular grain of rice found in the five-pound bag (except that there probably are not as many grains of rice in a five-pound bag as there are individual (one-bit) memory elements in a modern 4-8 Gigabyte random-access memory)..